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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,221	06/15/2001	Peter Michael Gits	2705-187	9267

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EXAMINER
DUONG, THOMAS

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)	
Advisory Action ***Before the Filing of an Appeal Brief***	09/882,221	GITS ET AL.	
	Examiner	**Art Unit**	
	Thomas Duong	2145	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 March 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *None*.

   Claim(s) objected to: *None*.

   Claim(s) rejected: *11-14, 16, 18-19, 27-31, and 38-45*.

   Claim(s) withdrawn from consideration: *None*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>Please see attachment sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).

13. ☐ Other: _____.

JASON CARDONE
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

Response to Argument

1.   The Applicants' arguments filed on March 9, 2006 have been fully considered, but they are not persuasive.

2.   With regard to *claims 11, 14, 42, and 44*, the Applicants point out that,

- *There are three problems with the Examiner's response to the Applicant's arguments. First, because Saulpaugh makes it clear that Jini and Javaspaces are inadequate to his task, Saulpaugh teaches away from using Jini and Javaspaces. Second, the Examiner is arguing from hindsight. And third, the Examiner is citing to sections of Saulpaugh that have nothing to do with the Applicant's arguments.*

However, the Examiner finds that the Applicants' arguments are not persuasive because Saulpaugh discloses, *"the generated code may conform to the client's code execution environment (e.g. Java, C++, Smalitalk), as well as its management and security framework (Web-server and/or operating system)"* (Saulpaugh, col.8, lines 8-11). This shows Saulpaugh's anticipation of utilizing Java spaces in the distributed computing environment. Again, Saulpaugh discloses his intention by stating that *"in one embodiment, the gate factory may be platform independent code (e.g. Java code) executable within a virtual machine in the runtime environment of the device, and the constructed gate may comprises platform independent code executable within said virtual machine in said runtime environment of said device"* (Saulpaugh,

col.8, lines 59-66). Furthermore, Saulpaugh discloses his anticipation of utilizing the Java spaces in stating *"in one embodiment, message capable layer 106 may be implemented from the networking classes provided by the Java2 Micro Edition (J2ME) platform"* (Saulpaugh, col.12, lines 30-32). In addition, Saulpaugh's figures 7, 10a, 34, and 35a-b show embodiments that utilize Java Virtual Machine and Java objects in the distributed computing environment. In particular, Saulpaugh discloses *"for example, device 120 is Java based, whereas device 124 provides a native code environment"* (Saulpaugh, col.14, lines 65-67). Hence, Saulpaugh's distributed computing environment is Java enabled based on the arguments and supports presented above.